

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

JAMES PETTY, #124 252

*

Plaintiff,

*

v.

*

2:06-CV-639-WKW
(WO)

RAY B. FINEDOR, *et al.*,

*

Defendants.

*

RECOMMENDATION OF THE MAGISTRATE JUDGE

Before the court for consideration is Defendant Hardy's Motion to Dismiss Plaintiff's Claims and Objection to Plaintiff's Motion for an Extension to file his response to Defendants' written reports. In support of his motion, Defendant Hardy maintains that dismissal of the claims against him is appropriate due to Plaintiff's failure to comply with the directives of the court, namely, timely filings.

The court has read and considered Defendant Hardy's motion and concludes that the motion is due to be denied as moot in light of the court's order entered January 5, 2007 granting Plaintiff's request for additional time to file his opposition.

Accordingly, it is the RECOMMENDATION of the Magistrate Judge that Defendant Hardy's Motion to Dismiss (Doc. No. 24) be DENIED as moot.

It is further

ORDERED that the parties are DIRECTED to file any objections to the said Recommendation on or before January 22, 2007. Any objections filed must specifically

identify the findings in the Magistrate Judge's Recommendation to which the party is objecting. Frivolous, conclusive or general objections will not be considered by the District Court. The parties are advised that this Recommendation is not a final order of the court and, therefore, it is not appealable.

Failure to file written objections to the proposed findings and recommendations in the Magistrate Judge's report shall bar the party from a *de novo* determination by the District Court of issues covered in the report and shall bar the party from attacking on appeal factual findings in the report accepted or adopted by the District Court except upon grounds of plain error or manifest injustice. *Nettles v. Wainwright*, 677 F.2d 404 (5th Cir. 1982). *See Stein v. Reynolds Securities, Inc.*, 667 F.2d 33 (11th Cir. 1982). *See also Bonner v. City of Prichard*, 661 F.2d 1206 (11th Cir. 1981) (*en banc*), adopting as binding precedent all of the decisions of the former Fifth Circuit handed down prior to the close of business on September 30, 1981.

Done, this 9th day of January 2007.

/s/ Terry F. Moorner
TERRY F. MOORER
UNITED STATES MAGISTRATE JUDGE